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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,971	10/25/2001	Rosa H. Birjandi	020431.0787	8827

7590 04/06/2005

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EXAMINER
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RUDY, ANDREW J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/032,971

Applicant(s)

BIRJANDI ET AL.

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 21-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-32 are pending.

#### ***Election/Restrictions***

2. Applicant's election with traverse of the non-elected claims, 1-10 and 21-32, in the reply filed on January 12, 2005 is acknowledged. The traversal is on the ground(s) that the various groups are obvious variants of each other. This is not found persuasive because the claim language of each Group does not mirror each other. For example, claims 1-10 require no processing units as recited from Group II, claims 11-20. As is, a reference may fully anticipate all of claims 1-10, but may not meet the claims 11-20 limitations. However, the criteria laid out in *Graham v. Deere* and a prima facie case of obviousness, does not preclude a latter applied 35 USC 103 obviousness type rejection from being invalidated from the Patent Board of Appeals, even though all the Group I claims were clearly anticipated. Similar analogy applies to the other Groups. Whether or not an obvious rejection may be properly applied is speculative. As is, Applicant's claim language would require further search/consideration for the various aspects contained within each Group. However, if Applicant concedes that each Group is not patentably distinct from each other, the Examiner may reconsider the requirement for restriction.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11, line 16, the phrase "coverage function" is not clear as to its meaning. Page 7, lines 30 to page 8, line 8, of the descriptive portion of the specification notes that it "describes the location of parts among locations 22." Page 9, lines 20-32, also describes a coverage function, as does page 13 and Figs. 3, 6. Each description is deficient as to a technical meaning other than describing part locations. As understood, "generating a coverage function" is no more than providing a bill of lading. It is noted that a bill of lading has been notoriously old and common knowledge in the accounting aspect of part data distribution.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 11-20, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Brinkley et al., US 5,963,919.

Brinkley discloses a method for maintaining an optimal level of inventory, e.g. completely filled demand, a partial demand, e.g. step c, determining an optimal level of a product in inventory, e.g. 208, of inventory having a plurality of locations, e.g. 110, lead-times, e.g. cols. 3-4, L, and computing demand, e.g. 250, and generating a coverage function, e.g. a print-out of demands of replenished inventory, e.g. col. 6, lines 17-24, and determining inventory levels, e.g. 400, col. 8, lines 45-50.

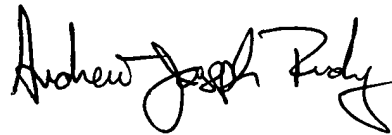
7. Further pertinent references of interest are noted on the attached PTO-892, e.g. US 5,265,006 discloses complete and partial demand.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808 (571-272-6789 after April 13, 2005). The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on 703-308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Andrew Joseph Rudy". The signature is written in a cursive, flowing style with a large initial "A" and "R".